

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

49 CFR Parts 172, 173, 175, 177, and 178

[Docket No. HM-139E; Notice 82-6]

### Conversion of Individual Exemptions Into Regulations of General Applicability

**AGENCY:** Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The MTB is considering amending the regulations governing the transportation of hazardous materials to incorporate therein a number of changes based on existing exemptions which have been granted to individual applicants allowing them to perform particular functions in a manner that varies from that specified by the regulations.

Adoption of these exemptions as rules of general applicability would provide wider access to the benefits of transportation innovations recognized as effective and safe. In addition, these proposed changes would eliminate the need for recordkeeping by the exemption holder(s); eliminate the need for marking the exemption number on the package and shipping paper(s), and, eliminate the need for MTB to receive, review, docket, evaluate, and issue a renewal of the exemption every two years.

**DATE:** Comments must be received on or before August 30, 1982.

**Address Comments to:** Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Darrell L. Raines, Chief, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590 (202-472-2726).

**SUPPLEMENTARY INFORMATION:** Each of the proposed amendments described in the following table is founded upon either (1) actual shipping experience gained under an exemption, or (2) the data and analysis supplied in the

application for an exemption. In each case the resulting level of safety being afforded the public is considered at least equal to the level of safety provided by the current regulations.

These proposals would not significantly affect the cost of regulatory enforcement, nor would additional costs be imposed on the private sector, consumer, or Federal, State or local governments, since these proposals would merely authorize the general use of shipping alternatives previously available to only a few users under exemptions. The safety record of shipments under the identified exemptions demonstrates that significant environmental impacts would not result from any of the proposals. Adoption of an amendment derived from an existing exemption would obviate the need for the exemption and effectively terminate it. Upon such termination the holder of the exemption and parties thereto would be individually notified. Adoption of an amendment derived from an application for exemption should provide the relief sought, in which event the exemption request would be denied and the applicant so notified. In the event the Bureau decides not to adopt any of these proposals, each pertinent application would be evaluated and acted upon in accordance with the applicable provisions of the exemption procedures in 49 CFR Part 107, Subpart B. Consequently, persons commenting on the proposals may wish to address both the proposed amendment and the exemption application.

Each mode of transportation for which a particular exemption is authorized or requested is indicated in the "Nature of Exemption or Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

The MTB has determined that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This proposal will not affect not-for-profit enterprises, or small governmental jurisdictions.

The following list of Federal Register Thesaurus of Indexing Terms applies to this notice of proposed rulemaking:

#### List of Subjects

##### 49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

##### 49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

##### 49 CFR Part 175

Hazardous materials transportation, Air carriers.

##### 49 CFR Part 177

Hazardous materials transportation, Motor vehicles.

##### 49 CFR Part 178

Hazardous materials transportation, Packaging and containers.

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E 5454.....	Allied Chemical Corp., Air Products & Chemicals, Inc., Union Carbide Corp.	§ 173.301(d)(1), § 173.304(a)(2).	Authorizes shipments of Sulfur hexafluoride in DOT Specification 3A1800, 3AA1800, 3AAX2400 and 3T1800 cylinders. Manifolding is authorized and cylinders comply with § 173.301(L). (Modes 1 and 3).	To amend paragraph (d)(1) of § 173.301 to include sulfur hexafluoride and to amend the Table in § 173.304(a)(2) for Sulfur hexafluoride to include DOT-3AAX2400; DOT-3T1800 cylinders.
DOT-E 6616.....	Fenwal Inc.	§ 178.51-15	To manufacture, mark and sell a non-DOT specification spherical, steel pressure vessel manufactured in compliance with DOT Specification 4BA with certain exceptions. NOTE: This exemption and proposed changes were included in HM-139D. However, the earlier changes did not contain all of the requirements specified in the exemption. (Modes 1, 2, 3, 4, 5).	To revise paragraph (a) of § 178.51-15 by adding the following three sentences to read as follows: (a) * * * Physical test for spheres required on 2 specimens cut from flat representative sample plate of the same heat taken at random from the steel used to produce the sphere. This flat steel from which 2 specimens are to be cut must receive the same heat treatment as the spheres themselves. Sample plates to be taken for each lot of 200 or less spheres.
DOT-E 6618.....	Monsanto Co.	§ 173.374	Authorizes shipments of Nitro-chlorobenzene, para, solid in an insulated DOT Specification MC-312 cargo tank equipped with heating coils. (Mode 1).	To add paragraph (a)(4) to § 173.374 to read as follows: (4) Specification MC-312 (§ 178.343 of this subchapter). Insulated cargo tank equipped with heating coils. Authorized only for nitro-chlorobenzene, para, solid. Not authorized for transportation by water.
DOT-E 6898.....	Allied Chemical Corp., Ashland Chemical Co., J. T. Baker Chemical Co., Mallinckrodt, Inc., E. I. du Pont de Nemours & Co., MCB Mfg. Chemists, Inc.	§ 178.150-4(a)(1)	Authorizes DOT Specification 33A polystyrene cases to be closed with one-half inch polypropylene strapping or equivalent having a tensile strength of 600 pounds per inch of width instead of the prescribed 1% inch pressure-sensitive tape. (Modes 1, 2, and 3).	To revise § 178.150-4 by deleting paragraphs (a)(1) and (a)(2). A new paragraph (b) would be added to read as follows: (b) Each case shall be closed for shipment with pressure-sensitive tape, polypropylene strapping, or other efficient means if they perform without failure under the tests prescribed by this section.
DOT-E 7590.....	National Motor Freight Traffic Assn., Commercial Lovelace Motor Freight, Inc., Pacific Intermountain Express Co., Central Freight Lines, Inc., Ryder Truck Lines, Inc., Smith's Transfer Corp., Transcon Lines, Gordons Transport, Inc.	§ 177.841(e)	Authorizes packages containing Class B poisons to be placed in a specially designed reusable overpack and transported in the same vehicle with foodstuff, feed or any other edible material. (Mode 1).	To revise paragraph (e) of § 177.841 to read as follows: (3) A carrier may not transport a package bearing a poison label in the same motor vehicle with material that is marked as or known to be foodstuff, feed or any other edible material intended for consumption by humans or animals unless the inside package is overpacked in a liquid-tight and dust-proof container identified as package 4000 in the National Motor Freight Classification 100 I.
DOT-E 8315.....	Air Products & Chemicals, Inc.	§ 173.314(c), Note 7.	Authorizes shipments of Methyl chloride in DOT Specification 106A500X tanks by cargo vessel. (Mode 3).	To amend the Table entry for "Methyl chloride" in § 173.314(c) to reference Note 25 instead of Note 7 when shipped in DOT-106A500X tanks.
DOT-E 8385.....	Hercules, Inc.	§ 173.93(a)(10)	Authorizes shipment of Propellant explosives, sold in DOT Specification 21C-400 fiber drums having a maximum net weight of 265 pounds. (Mode 1).	To amend § 173.93(a)(10) by increasing the maximum net weight from 225 pounds to 265 pounds.
DOT-E 8395.....	3M Company	§ 173.124(a)(3)	Authorizes shipments of Ethylene oxide in inside aluminum cartridges, contents not over 138 grams each. (Modes 1, 2, 3, 4).	To amend paragraph (a)(3) of § 173.124 by increasing "135 grams" to read "138 grams".
DOT-E 8441.....	Duracell International, Inc., General Motors Corp., Bunker Ramo Corp., U.S. Dept. of Defense, Power Conversion, Inc., Sanders Associates, Inc., Battery Disposal Technology, Inc., Electrochem Industries, Inc., U.S. Dept. of Energy, Magnavox Electronics Systems Co., Magnavox Electronics Systems Co., Eagle-Picher Industries, Inc., Raytheon Co.		Authorizes shipments of depleted lithium cells and batteries, which when new, met the testing requirements of DOT-E 7052 and did not contain more than 12 grams of lithium per cell in DOT Specification 12B fiberboard boxes having a gross weight not over 65 pounds; or any metal or fiberboard drum that meets the requirements of § 173.24. (Mode 1).	To add a new entry to the Table in § 172.101 for "Lithium batteries, depleted" and add a new paragraph § 173.1015 to read as follows: § 173.1015 <i>Lithium batteries, depleted.</i> Depleted lithium batteries and cells which contained not more than 12 grams of lithium, per cell, when new, and are equipped with an effective means of preventing external short circuits may be transported only by motor vehicle to a disposal site, as an ORM-C, when overpacked in strong fiberboard boxes, metal, or fiber drums. All outside packaging must comply with § 173.24.
DOT-E 8446.....	Ethyl Corp.	§ 173.354(a)(2)	Authorizes shipments of Motor fuel antiknock compound in DOT Specification 5B steel drums, with openings not exceeding 2.3 inches in diameter. (Modes 1, 2, and 3).	To revise paragraph (a)(2) of § 173.354 to read as follows: (2) Specification 5, 5A or 5B (§§ 178.80, 178.81, 178.82 of this subchapter). Metal barrels or drums, with openings not exceeding 2.3 inches in diameter. Drums must be capable of withstanding the performance test prescribed for packaging Group 1 liquids having a specific gravity exceeding 1.2 as specified in the IMCO Code for 1A1A drums.
DOT-E 8463.....	Ethyl Corp.	§ 173.262(b)	Authorizes shipments of Hydrobromic acid in a DOT Specification 12A fiberboard box, 275-pound test minimum, having not more than four inside glass bottles each having a capacity not exceeding one-quart, or 12 inside glass bottles each having a capacity not exceeding eight fluid ounces. Each bottle must be enclosed in a metal can and surrounded by a noncombustible cushioning material. (Mode 1).	To add paragraph (6) to § 173.262(b) to read as follows: (6) Specification 12A (178.210 of this subchapter). Fiberboard box with not more than four inside glass bottles not over one-quart capacity each, or 12 inside glass bottles not over eight fluid ounces each. Each bottle must be enclosed in a metal can and surrounded by a noncombustible cushioning material. Box shall be constructed of at least 275-pound test (Mullen or Cady) corrugated fiberboard.

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E 8508	Dow Chemical Co	§ 178.102-2(c)	Authorizes the construction of a DOT 6D cylindrical steel overpack with two holes not exceeding 1/4 inch each diametrically opposite each other in the overpack body immediately below the top chime instead of immediately above the bottom chime. (Modes 1, 2, 3).	To revise § 178.102-2(c) to read as follows: (c) Two holes not exceeding 1/4 inch each are permitted diametrically opposite each other in the overpack body immediately below the top chime or immediately above the double seam of the bottom chime or three holes not exceeding 3/4 inch in diameter on centers 120 degrees apart in the bottom head.
DOT-E 8587	Thatcher Chemical Co, Economics Lab., Inc.	§ 173.256	Authorizes shipments of Compound, cleaning, liquid (containing hydrofluoric acid) in DOT Specification 12P fiberboard boxes with one inside specification 2U polyethylene container of not over 5-gallon capacity. (Mode 1).	To add paragraph (8) to § 173.256 to read as follows: (8) Specification 12P (§ 178.211 of this subchapter). Fiberboard boxes with one inside specification 2U (§ 178.24 of this subchapter) polyethylene container of not over 5-gallon capacity or two inside specification 2U polyethylene containers of not over 2 1/2 gallon capacity each. Wire staples are not authorized for assembly or closure of boxes, except when polyethylene container is completely enclosed in inside boxes free of wire staples or other projections that could cause failures. Not authorized for transportation by air.
DOT-E 8618	Alaska International Air, Inc., South Central Air.	§ 175.320	Authorizes shipments of Fuel, aviation, turbine engine; Methyl alcohol; or Toluene in DOT Specification 5, 5A, 5B, 5C, 5M, 17E or 17C drums of 55-gallon capacity each by Cargo aircraft only within the State of Alaska. (Mode 4).	To amend the Table in § 175.320 by adding the following entry: Fuel aviation, turbine engine; Methyl alcohol; or Toluene * * * Flammable liquid * * * Permitted in metal drums having rated capacity of 55 gallons or less. May not be transported in the same aircraft with materials classed as Class A, B, or C explosives, blasting agents, corrosive materials or oxidizing materials. Permitted in installed tanks each having a capacity of more than 110 gal. subject to the conditions specified in paragraph (c) of this section.
DOT-E 8623	E. I. du Pont de Nemours & Co., W. R. Grace & Co.	§ 173.352(a)(5)	Authorizes shipments of Sodium cyanide solution or Potassium cyanide solution in DOT Specification MC-304, MC-307 and MC-312 cargo tanks having a minimum design pressure of 25 psig. (Mode 1).	To revise § 173.352(a)(5) to read as follows: (5) Specification MC-300, MC-301, MC-302, MC-303, MC-304, MC-305, MC-306, MC-307 or MC-312 (§§ 178.341, 178.342, 178.343 of this subchapter). Tank motor vehicles.
DOT-E 8625	Airco, Inc. (Ohio Medical Products)	§ 173.314	Authorizes shipments of Nitrous oxide in DOT Specification 105A500W or 105A600W tank cars under the same conditions as applicable to carbon dioxide. (Mode 2).	To amend the Table in § 172.101 to include § 173.314 in Column (5)(b) for Nitrous oxide and add Nitrous oxide to the Table in § 173.314(c). Column 2 of the § 173.314(c). Table would read Note 5 and the third Column would read DOT 105A500W, 105A600W, Note 6.
DOT-E 8655	Western Electric Co., Sperry Univac Defense Systems, Digital Equipment Corp., American Chemical & Refining Co. Inc.	§ 173.352(a)	Authorizes shipments of Cyanide solution, n.o.s. in DOT Specification 6D steel overpacks with inside DOT Specification 2S or 2SL polyethylene packaging. (Modes 1 and 3).	To add paragraph (a)(7) to § 173.352 to read as follows: (7) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside Specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene packaging. Not authorized for transportation by air.
DOT-E 8659	Goodyear Tire & Rubber Co	§ 173.224(a)(4)	Authorizes shipments of Diisopropylbenzene hydroperoxide, not exceeding 60% by weight in a nonvolatile solvent in DOT Specification MC-310, MC-311 or MC-312 cargo tanks. Bottom outlets are not authorized. (Mode 1).	To revise paragraph (a)(4) of § 173.224 to read as follows: (4) Specification MC-310, MC-311 or MC-312 (§ 178.343 of this subchapter). Tank motor vehicles. Authorized for diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Bottom outlets are not authorized. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Authorized for pinane hydroperoxide of strength not exceeding 45 percent in a nonvolatile solvent. Authorized for cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent in MC-311 or MC-312 cargo tanks only.
DOT-E 8661	Ethyl Corp	§ 173.119(m)	Authorizes shipments of Meta phenoxybenzaldehyde cyanohydrin (with 12 percent toluene) a flammable liquid which is also a Poison B in DOT Specification 51 portable tanks. Bottom outlets are prohibited. (Modes 1, 2 and 3).	To add paragraph (15) to § 173.119(m) to read as follows: (15) Specification 51 (§ 178.245 of this subchapter). Portable tank. Authorized only for a flammable liquid which is also a Poison B liquid. Bottom outlets are not authorized.
DOT-E 8688	NL Industries, Inc.	§ 173.297	Authorizes shipments of Titanium sulfate solution containing not more than 45% sulfuric acid in a DOT Specification 34 polyethylene container without overpack, not over 30-gallon capacity. (Mode 1).	To add paragraph (a)(7) to § 173.297 to read as follows: (7) Specification 34 (§ 178.19 of this subchapter). Polyethylene container without overpack, not over 30-gallon capacity.
DOT-E 8703	Union Carbide Corp	§ 172.101	Authorizes the name "Methyl isocyanate" as a proper shipping name and an identification number "UN 2480" instead of "Flammable liquid, corrosive, n.o.s." and "UN 2924". Packaging is as prescribed in § 173.119, as appropriate. (Modes 1 and 2).	To amend the Table in § 172.101 by adding an entry for "Methyl isocyanate" (see Table at end of document).

Exemption No.	Applicant holder	Regulation affected	Nature of exemption or application	Proposed amendment
DOT-E 8715	W. L. Gore & Associates	§ 173.119(m)(3)	Authorizes shipments of an etchant classed as a flammable liquid which is also corrosive in an inside metal can not over one-pint capacity each, surrounded by a sufficient quantity of noncombustible material to absorb the liquid contents (Modes 1, 2 and 4).	To revise paragraph (m)(3) of § 173.119 to read as follows: (3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside glass or earthenware containers not over 1 quart capacity each, or inside metal cans not over 1-pint capacity each, inside containers must be cushioned with incombustible packing material in sufficient quantity to absorb the contents of the inner container. Use of the inside metal can is authorized only for materials which will not react dangerously with the metal can, or be decomposed by contact with it. To add paragraph (a)(1) to § 173.60 to read as follows: (1) Specification 13 (§ 178.140 of this subchapter). Metal kegs, not less than 7 inches long. Net weight not less than 6½ pounds nor more than 150 pounds. Specification 13 was removed by Docket HM-166C on September 11, 1980. At that time, MTB was not aware that this specification packaging was still being manufactured and in general use. (Modes 1, 2, 3).
DOT-E 8715	Goex, Inc.	§ 173.60, § 178.140	Authorizes shipments of Black powder in DOT Specification 13 metal kegs, not less than 7 inches long. Net weight not less than 6½ pounds nor more than 150 pounds. Specification 13 was removed by Docket HM-166C on September 11, 1980. At that time, MTB was not aware that this specification packaging was still being manufactured and in general use. (Modes 1, 2, 3).	To add paragraph (a)(1) to § 173.60 to read as follows: (1) Specification 13 (§ 178.140 of this subchapter). Metal kegs, not less than 7 inches long. Net weight not less than 6½ pounds nor more than 150 pounds. To reinstate § 178.140 to read as it did prior to its removal by Docket No. HM-166C.

§ 172.101 Hazardous materials table.

(1)	(2)	(3)	(3A)	(4)	(5)		(6)		(7)		
+ EAW	Hazardous materials descriptions and proper shipping names	Hazard class	Identification number	Label(s) required (if not excepted)	Packaging		Maximum net quantity in one package		Water shipments		
					Exemptions	Specific requirements	Passenger carrying aircraft or railcar	Cargo only aircraft	Cargo vessel	Passenger vessel	Other requirements
	(Add) Lithium batteries, depleted. Methyl isocyanate	ORM-C Flammable liquid.	UN2480	None Flammable liquid and Poison.	(a) None None	(b) 173.1015 173.119	(a) Forbidden Forbidden	(b) Forbidden 10 gallons	(a) 1	(b) 5	(c) Keep cool. Stay away from living quarters and sources of heat.

(49 U.S.C. 1803, 1804, 1808; [49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of Appendix A to Part 106])

**Note.**—The Materials Transportation Bureau has determined that this proposed regulation is not a major rule under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor

does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and an environmental assessment are available for review in the Docket. I certify that this proposed regulation if published as a final rule, will not have a significant economic impact on a substantial number of small entities.

Issued in Washington, D.C., on June 22, 1982.

**Alan I. Roberts,**  
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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